



**BY EMAIL and RESS**

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January 14, 2025  
Our File: EB20240021

**Attn: Nancy Marconi, Registrar**

Dear Ms. Marconi:

**Re: EB-2024-0021 – ERTH Power ICM – SEC Procedural Request**

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 3, SEC writes to request that the OEB schedule a technical conference as part of the procedural steps in the proceeding regarding ERTH Power Corporation's ("ERTH Power") proposed Incremental Capital Module ("ICM") for its new administrative and operational facility ("New Facility").

SEC has had an opportunity to undertake a preliminary review of the interrogatory responses, and many require further exploration and clarification. This is necessary to ensure that intervenors have sufficient information to properly assess the reasonableness of the Application, and that the OEB has the information it needs to adjudicate it. Additionally, ERTH Power, for the first time as part of its interrogatory responses, has proposed three new deferral and variance accounts that require clarification.<sup>1</sup>

SEC recognizes that technical conferences are not typically held for ICM applications. However, the additional procedural is proportionate considering the size of the project (\$33.4M), the ICM request (\$2.78M in incremental funding per year)<sup>2</sup>, and the distribution bill impacts (17.1% and 16.7% for customers in the Main and Goderich Rate Zones). SEC believes that a technical conference, as opposed to an oral hearing, is a balanced approach in ensuring that the record is complete, while promoting regulatory efficiency.

Attached to this letter is a list of interrogatory responses and the areas where SEC believes clarification is required. These areas would form the basis of our questions (among potentially others) that we would seek to address at the technical conference.

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<sup>1</sup> ERTH Avoided Rent Deferral Account, Rental Income Deferral Account, ERTH New Facility OM&A Cost Variance Account (See SEC-6)

<sup>2</sup> Application, Appendix A, p.20-21



Yours very truly,  
**Shepherd Rubenstein P.C.**

Mark Rubenstein

cc: Jane Scott, SEC Consultant (by email)  
Brian McKay, SEC (by email)  
ERTH Power and intervenors (by email)

### Attachment

IRR #	Further Information Required
SEC-1, Attach 1/Staff-6	<ul style="list-style-type: none"> <li>An explanation of how the OM&amp;A forecasts in SEC-1 Attachment 1 were established and why they are no longer considered sufficient. Further details on OM&amp;A savings/costs are needed.</li> </ul>
SEC-1, Attach 12	<ul style="list-style-type: none"> <li>A cost-benefit analysis that weighs the cost of the New Facility against the expected benefits, not just comparing the three options.</li> </ul>
SEC-2	<ul style="list-style-type: none"> <li>Explanation of how the change order process works, what is included, not included, required authorities, etc.</li> <li>Explanation of how the additional \$3.34 million is to be used and whether it is in addition to the \$23,254,500.</li> </ul>
SEC-4g	<ul style="list-style-type: none"> <li>An explanation of EARTH Power's proposal to only recognize any savings related to energy costs at its next rebasing application in 2028, and not when the New Facility goes into service.</li> </ul>
SEC-5	<ul style="list-style-type: none"> <li>Details on EARTH Power's plan to add two CDM staff, e.g. which company they will be a part of and which company they will work for.</li> </ul>
SEC-6	<ul style="list-style-type: none"> <li>Further details and clarity regarding EARTH Power's proposal arose in response to the IR for establishment of two or three new DVA accounts (interrogatory response is unclear).</li> <li>An explanation of why EARTH Power is proposing a symmetrical variance account for changes in the Facilities OM&amp;A, and what the baseline for each year 2026 and 2027 is for the variance calculation.</li> </ul>
SEC-8b	<ul style="list-style-type: none"> <li>Further explanation regarding the request for options analysis, specifically how EARTH Power considered a less expensive new build option as asked in the initial interrogatory. Details regarding, what, if any, considerations did EARTH Power have to changing core requirements, or adjusting design, to reduce costs.</li> </ul>
SEC-12	<ul style="list-style-type: none"> <li>Further Explanation and underlying data of EARTH Powers blended cost index used in its benchmarking analysis.</li> </ul>
SEC-13a	<ul style="list-style-type: none"> <li>Further explanation of the cost/ft<sup>2</sup> when adjusted for the final price of the New Facility and removing the solar and heat pump on the average cost/ft.</li> <li>Further details on how the split between office space and other usages impacts the cost/ft<sup>2</sup> for EARTH's New Facility and the comparators.</li> </ul>
SEC-14	<ul style="list-style-type: none"> <li>Explanation for EARTH Power's proposal to use ESM to share savings from the reduction in fleet.</li> </ul>
SEC-15b	<ul style="list-style-type: none"> <li>Details on why EARTH Power believes that the cost of the New Facility is focused on utility operations and indirectly impacts the customer base", therefore there was no need to consult them.</li> </ul>
SEC-17a,b	<ul style="list-style-type: none"> <li>Details and clarification on the increase in office space per FTE in the New Facility from the Bell St. facility, and benchmarking for the space/FTE using external industry standards.</li> <li>Further details and understanding regarding how the <i>process</i> discussed in part (b) in determining the New Facility requirements translated into the <i>specific</i> requirements.</li> <li>Understanding and details of the "iterative process between the EARTH Power team and engineering and architecture firms."</li> </ul>
Staff-7	<ul style="list-style-type: none"> <li>An explanation of how the \$190k write-off of leasehold improvements was considered in the cost-benefit analysis.</li> </ul>
Staff-9	<ul style="list-style-type: none"> <li>Explain how the increase in affiliate FTEs occupying space in the New Facilities changes the rent to be received, and why it no longer "reduces EARTH Power's FTEs and allows it to operate at a lower cost".</li> </ul>

Staff-10a & b	<ul style="list-style-type: none"> <li>▪ Clarification required on the number of inside staff/outside staff to occupy the New Facility, the maximum capacity and the occupancy rate initially and in the future.</li> </ul>
Staff-11	<ul style="list-style-type: none"> <li>▪ More details on the new generator in terms of exactly what load it can supply and whether it replaces an existing generator.</li> </ul>
Staff-14	<ul style="list-style-type: none"> <li>▪ An estimate of possible external funding is required based on applications EARTH Power has submitted.</li> </ul>
Staff-15k	<ul style="list-style-type: none"> <li>▪ Follow-up on question regarding benchmark and standards used to determine space <u>requirements</u> (which would be part of the design requirements). EARTH Power's response points to pre-filed evidence to address broad benchmarking against other utility new build facilities.</li> </ul>